

## § 955.8

general denial on behalf of the respondent, and the appellant shall be so notified.

(c) *Affirmative claims by the respondent.* Where an appellant has appealed an affirmative claim by the respondent asserted in a final decision by a Postal Service contracting officer, such as a termination for default or a Postal Service claim that a contractor owes the Postal Service money under a contract, the Board may order the respondent to file the complaint as described in § 955.7(a), and the appellant to file the answer as described in § 955.7(b).

[74 FR 20592, May 5, 2009, as amended at 76 FR 37660, June 28, 2011]

EFFECTIVE DATE NOTE: At 80 FR 31304, June 2, 2015, § 955.7 was amended by revising the first sentence of paragraph (a) and revising the first sentence of paragraph (b), effective July 2, 2015. For the convenience of the user, the revised text is set forth as follows:

### § 955.7 Pleadings.

(a) \* \* \* Within 45 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board a complaint setting forth simple, concise and direct statements of each of its claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. \* \* \*

\* \* \* \* \*

(b) \* \* \* Within 30 days from receipt of said complaint, or the aforesaid notice from the Board, the respondent shall prepare and file with the Board an answer thereto, setting forth simple, concise, and direct statements of the respondent's defenses to each claim asserted by the appellant. \* \* \*

\* \* \* \* \*

### § 955.8 Amendments of pleadings or record.

(a) Upon its own initiative or upon application by a party, the Board may, in its discretion, order a party to submit a more definite statement of the complaint or answer, or to reply to an answer.

(b) When issues within the proper scope of an appeal, but not raised in the pleadings, have been raised without objection or with permission of the Board at a hearing or in record submissions, they may be treated in all re-

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spects as if they had been raised in the pleadings. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, in its discretion the Board may admit the evidence and grant the objecting party a continuance or other relief if necessary to enable it to meet such evidence.

### § 955.9 Hearing request.

As directed by Board order, each party shall inform the Board, in writing, whether it requests a hearing as prescribed in §§ 955.18 through 955.25, or in the alternative submission of its case on the record without a hearing as prescribed in § 955.12. If a hearing is requested, the request should state where and when the requesting party desires the hearing to be conducted and should explain the reasons for its choices. After considering the parties' requests, the Board will determine whether a hearing will be held.

[76 FR 37660, June 28, 2011]

### § 955.10 Prehearing briefs.

Based on an examination of the documentation described in § 955.5, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been ordered pursuant to § 955.9. In the absence of a Board requirement therefor, either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall be furnished simultaneously to the other party.

[74 FR 20592, May 5, 2009, as amended at 76 FR 37660, June 28, 2011]

EFFECTIVE DATE NOTE: At 80 FR 31305, June 2, 2015, § 955.10 was amended by revising the final sentence, effective July 2, 2015. For the convenience of the user, the revised text is set forth as follows: